

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DEC - 3 2004

DAVID J. MALAND, CLERK

BY

DEPUTY _____

SOVERAIN SOFTWARE LLC,

Plaintiff

v.

(1) AMAZON.COM, INC.

(2) THE GAP, INC.

Defendants

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6:04-CV-14

ORDER

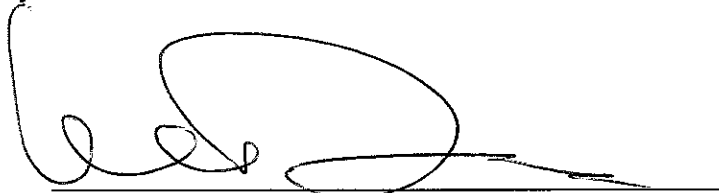
This order memorializes the Court's rulings at the hearing on December 1, 2004:

Plaintiff's Motion to Compel (Docket No. 104) is **DENIED AS MOOT** per the parties' stipulation at the hearing on December 1, 2004.

Plaintiff's Motion to Dismiss (Docket No. 105) is **GRANTED** to the extent that Defendant Amazon.com is to file an amended answer on or before December 15, 2004. Amazon's amended answer shall plead inequitable conduct or patent fraud allegations with specificity pursuant to Federal Rule of Civil Procedure 9(b). For each allegation of inequitable conduct or patent fraud, the allegation shall include who engaged in the inequitable conduct, what the prior art reference consists of, why the prior art reference was material and should have been disclosed to the patent office, and whether the disclosure was omitted with knowledge of its materiality. Finally, Amazon shall include in its answer all allegations of inequitable conduct and patent fraud and shall not rely on references to other documents or its invalidity contentions. If Amazon is unable to plead an allegation(s) with the requisite specificity, it shall omit such allegation(s) from its answer.

Defendants' Motion to Strike (Docket No. 107) is **GRANTED** to the extent that United States Patent Nos. 6,195,649 and 6,205,427 are severed from this action and all claims related to these patents shall proceed under Cause No. 6:04cv528. Plaintiff shall file a Complaint bringing its allegations as to these patents on or before December 8, 2004. Defendants shall file an answer on or before December 22, 2004. The Court considers the hearing on December 1, 2004 to be the scheduling conference in the severed case. Based upon the representations of the parties, the Court will consider Plaintiff to have complied with P.R. 3-1. Plaintiff must comply with P.R. 3-2 within ten days of the December 1 scheduling conference. The Court will issue a docket control order in the severed case reflecting this and other deadlines.

Signed and **ORDERED** this 2nd day of December 2004.

A handwritten signature in black ink, appearing to read 'Leonard Davis', is written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE